

laws restricting the privilege of taking oysters to its own citizens.

It is suggested that the 2d section of the 4th Article of the Constitution of the United States declaring "that the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States," forbids such a restriction. But this is not so—as early as 1797 Chief Justice Chase held that to these words was to be given a particular and limited operation not a full and comprehensive one, and this, he says, was admitted in the argument, and that they do not include the rights of election or of being elected or of holding office, &c.

5 H. and McH., 554.

9 Maryland, 210.

The very question came before Chief Justice Washington, and he decided that these words "privileges and immunities of citizens" are to be confined to such as are *fundamental*, such as belong to citizens of all free Governments, and such as have always been enjoyed by citizens of the several States. Citizens of the States are not to participate in all the rights which belong to citizens of particular States—much less says he, in the regulation of the use of the common property of the citizens, is the Legislature bound to extend to the citizens of all the other States the same advantages as are secured to their own citizens. The oyster beds of the State, he proceeds to say, may be abundantly sufficient for the use of the citizens of that State, but might be exhausted or destroyed if the Legislature could not so regulate the use of them as to exclude the citizens of other States from taking them, except under such limitations or restrictions as the law may prescribe.

4 Wash. C. C. Rep., 380, &c., *Corfield vs. Coryall*.
See also 3 Gray's Rep. 276, *Durham vs. Lamphere*.
Baldwin Rep., 72, *Runnell vs. Boggs*.

6 Pick Rep. *Abbot vs. Bayler*.

These cases so clearly decide the second question in favor of the right to exercise the power there stated that nothing more need be added.

The Legislation of many of the States has for years denied to the citizens of other States the privileges of fishing in their navigable waters, which were enjoyed by their own citizens, and nevertheless I can find no case decided against the constitutionality of such Legislative discrimination in favor of their own citizens.

The following references are the laws of the States on this subject:

1 New York Revised Code 687 and 688.

Virginia Code 451, 452, 453—1860, chap. 101, page 502-3.